

Summary of Telephone Examiner/Attorney Interview 11/15/04.

Applicants thank Examiner for the interview granted to their attorney, J. B. Kraft on November 15, 2004. In that interview Applicants' attorney advised Examiner that Applicants could swear behind the February 16, 2001 filing date of the Margolus et al. Publication (US20020038296) based upon Attorney and Applicant 37 C.F.R. 1.131 Declarations that the final draft of the present Application was made available on February 12, 2001, prior to the Margolus filing date, reviewed by Applicants, and filed in the U.S. Patent Office in 20 days, on March 8, 2001. Accordingly, as will be subsequently described in detail, this Publication can not be used as prior art in the rejection of claims 1-45 under 35 USC 103(a) over the combination of Schneck in view of this Publication.

Applicants' Argument.

The Rejection under 35 USC 103(a) is respectfully traversed.

The rejection of claims 1-45 over Schneck et al. in view of the Margolus Publication (US20020038296) is respectfully traversed.

It is submitted that all that is necessary to antedate a reference under 37 CFR 1.131 is to establish the existence of the concept of the claimed invention before the filing date of the reference together with due diligence to (in this case) a constructive reduction to practice on the filing date of the present invention, on March 8, 2001.

Accordingly, the Declaration of J. B. Kraft submitted herewith and its attached Exhibit B establish that on the February 15, 2001, before the filing date of the Margolus Publication, the Declarant attorney was in possession of the Applicant's written disclosure (Exhibit A) of the concept of

the invention, and had already completed the writing of the final draft of this Application which was completed on February 12, 2001. The draft was then being reviewed by IBM's IPLaw Department and Inventors, and pursued with reasonable diligence until the present Application was filed on March 8, 2001. The filed Application as set forth in the Declarations was substantially the final draft made available on February 12, 2001. This final draft represents the completed written concept of the present Application

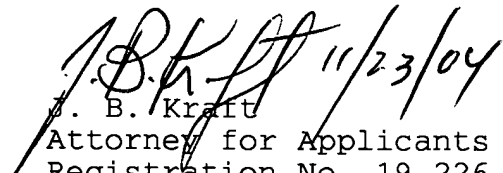
Since the Publication was filed February 16, 2001, all that the Declaration of J. B. Kraft needs to establish is diligence from February 15, 2001 to the March 8, 2001 filing date of the present application. Such a three week period during which the completed application draft was being reviewed, finalized and executed is certainly reasonable diligence.

Therefore, it is submitted that Applicants' evidence has established the present claimed invention prior to the Margolus et al. Publication filing date. Without the Margolus et al. publication, the 35 USC 103(a) rejection of claims 1-45 can not be maintained.

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In view of the foregoing, claims 1-45 are submitted to be in condition for allowance, and such allowance is respectfully requested.

Respectfully submitted,


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